

Application No. 10/052,559

**REMARKS**

Claims 16-44 are pending in this application. By this Amendment, claims 1-15 are cancelled and claims 16-44 are added. No new matter is added.

Applicants appreciate the courtesy shown to Applicant's representative by Examiner Doan in the May 28, 2003 personal interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

**I. Formal Matters**

As discussed during the personal interview, Applicants filed an Information Disclosure Statement (IDS) on January 23, 2002. Although the February 28, 2003 Office Action indicated that an initialed PTO-1449 was attached, one was not received. Moreover, it is not apparent from Applicants' records whether Applicants' prior attorney submitted a PTO-1449 listing the references listed and provided with the January 23, 2002 IDS. For the Examiner's convenience, Applicants attach a PTO-1449 listing the references previously cited and provided. Because the January 23 IDS has been received and all formalities complied with, no fee is believed due. Return of an initialed copy of the PTO-1449 with the next Patent Office communication is expressly requested.

**II. The Pending Claims Define Patentable Subject Matter**

In the Office Action, claims 1-6, and 9-15 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 2,489,707 to Eubanks in view of U.S. Patent No. 2,175,481 to Padulo. Additionally, claim 7 is rejected under 35 U.S.C. §103(a) over Eubanks in view of Padulo, further in view of U.S. Patent No. 5,101,589 to Duncan. Finally, claim 8 is rejected under 35 U.S.C. §103(a) over Eubanks in view of Padulo, further in view of U.S. Patent No. 5,406,728 to Willits, Jr. These rejections are respectfully traversed.

Claims 1-15 have been canceled without prejudice or disclaimer in favor of new claims 16-44. As it is evident from the specification, in particular from page 1 thereof, the

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present invention aims to create a toothbrush which has an attractive appearance. For this purpose, an aesthetically pleasing article or insert is placed in a cavity in the toothbrush handle and can be seen through the transparent handle. Independent claim 16 specifies that an elongated article providing an aesthetic effect is accommodated in the cavity and has an essentially cylindrical outer shape in the form of a roll. For example, see Figs. 4-5. Independent claim 28 specifies that the article in the cavity is an ampoule that may be filled with various aesthetic objects and then closed or sealed. For example, see Figs. 6-10.

As discussed, Eubanks discloses a toothbrush with a receptacle 30 provided in a transparent handle 16. The receptacle 30 has a rectangular cross section which is uniform throughout its length (column 3, lines 43-52). This receptacle 30 receives two flat cards 44, 46 which have imprinted thereon some information used for identification (column 3, line 53-column 4, line 5). Eubanks teaches to introduce in a cavity of the toothbrush handle flat information carriers which serve for identification (ownership, date of first use and the like). Eubanks does not teach to achieve a particular aesthetic effect with the cards inserted into the handle cavity. Moreover, the cards are neither in roll form having a substantially cylindrical outer shape as recited in independent claim 16 nor an ampoule containing an object therein as recited in independent claim 28. To the contrary, such an aesthetic effect is possible with the roll or ampoule accommodated in the handle cavity as claimed in new claims 16 and 28.

U.S. Patent No. 2,175,481 (Padulo) discloses a tool with a handle 21 having a cylindrical bore 24. A number of cylindrical discs 25 are placed in the bore 24. Each disc is provided with characters 26 composing a monogram or the initials of the name of the owner (page 1, right-hand column, lines 1-15). Like Eubanks, the discs 25 serve to identify the owner of the tool (see also page 1, left-hand column, lines 1 and 2). The discs 25 in the

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handle 21 are not intended to provide for particular aesthetic effects, and are not elongated as claimed.<sup>1</sup>

One of ordinary skill in the art would not have seen any reasons to employ the disc 25 of Padulo in the toothbrush of Eubanks since this would have resulted in a more complicated structure without bringing additional advantages, since both Eubanks and Padulo are proposed means for ownership identification only. Further, because Padulo is directed to a work tool, one looking for improvements to a toothbrush would not have been motivated to look to Padulo. Moreover, even if the cards of Eubanks were replaced by the discs of Padulo as asserted, the combination would not include all of the features recited in new independent claims 16 and 28. In particular, even if combined, the combination fails to provide an elongated article serving an aesthetic effect that is either in roll form (claim 16) or an ampoule (claim 28). The remaining applied references fail to overcome the deficiencies of Eubanks and Padulo. As such, claims 16 and 28 define over the applied art. Dependent claims 17-27 and 29-44 are believed allowable for their dependence on allowable base claims and for the additional features recited therein.

Withdrawal of the rejections is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 16-44 are earnestly solicited.

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<sup>1</sup> Webster's Dictionary defines "elongate" as having notably more length than width. This definition is consistent with Applicants' specification and examples.

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Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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